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April 8, 2020

**VIA ECF**

Honorable Barbara Moses  
United States District Court  
Southern District of New York  
New York, New York 10007

**Re: *Morgan Art Foundation Ltd., v. McKenzie, et al.*, 18 Civ. 04438 (AT); *Morgan Art Foundation Ltd., et al. v. Brannan*, 18 Civ. 08231 (AT)**

Dear Judge Moses,

I write on behalf of Plaintiffs Morgan Art Foundation Ltd. (“MAF”), Figure 5 Art LLC, Shearbrook (US), LLC, RI Catalogue Raisonné LLC, and Simon Salama-Caro (“Plaintiffs”), and jointly with counsel for Michael McKenzie, American Image Art (“AIA”), Jamie Thomas, and James Brannan as Personal Representative of the Estate of Robert Indiana (the “Estate”), in accordance with paragraph 2 of Your Honor’s January 15, 2020 Order (ECF No. 211),<sup>1</sup> to update Your Honor on the progress of discovery to date as well as the progress of the parties’ settlement efforts.

**Document Discovery:**

Document discovery remains ongoing. Plaintiffs’ counsel and counsel for the Estate have conferred extensively in an effort to resolve disputes regarding outstanding document requests served upon Plaintiffs by the Estate, and Plaintiffs have agreed to make best efforts to produce additional records no later than May 8, 2020.

On March 17, 2020, counsel for AIA served a Third Request for Production of Documents upon the Estate, and a Second Request For Production of Document upon Jamie Thomas. Thomas and the Estate will respond to these Requests no later than April 16, 2020, and will produce additional responsive documents, if any, on a rolling basis.

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<sup>1</sup> “ECF No.” refers to docket entries in *Morgan Art Foundation Ltd. v. McKenzie, et al.*, No. 18-4438-cv (S.D.N.Y.).

Counsel for AIA and McKenzie continue to communicate with counsel for Plaintiffs regarding certain limited disputes regarding the parties' discovery requests. The parties will promptly raise with the Court any issues they are unable to resolve through their continuing negotiations.

Requests for Admission:

In accordance with Paragraph 4 of Your Honor's January 15, 2020 Order, on March 16, 2020, MAF served Requests for Admission on Thomas, the Estate, and McKenzie and AIA. That same day, Thomas served Requests for Admission on MAF, and the Estate served Requests for Admission on MAF, Figure 5 Art LLC, Shearbrook (US), LLC, RI Catalogue Raisonné LLC, and Simon Salama-Caro. Responses to all Requests for Admissions are due to be served April 15, 2020.

Depositions:

On February 25, 2020, the Estate, Plaintiffs, and Thomas took the deposition of a corporate representative for non-party Artists Rights Society. Additional depositions planned for March and early April 2020 had to be adjourned due to the coronavirus outbreak, and the parties are working collaboratively on a schedule for the remaining party and non-party depositions, which may require the parties to request that the Court extend current discovery deadlines.

Settlement Efforts:

As Your Honor is aware, the parties participated in mediation in late-November 2019. That mediation resulted in the settlement and dismissal of claims between Thomas and the Estate. There has been no demand presented by Plaintiffs to McKenzie and AIA for settlement. The parties have not otherwise resolved their claims.

Respectfully submitted,

*/s/ Luke Nikas*

Luke Nikas